

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE MERRILL LYNCH & CO., INC. ::
SECURITIES, DERIVATIVE AND ERISA ::
LITIGATION ::
:: Master File No.:
:: 07 cv 9633 (LBS) (AJP) (DFE)
::
:: **NOTICE OF DEFENDANT E.**
:: **STANLEY O'NEAL'S MOTION TO**
:: **DISMISS THE CONSOLIDATED**
This Document Relates To: :: **AMENDED CLASS ACTION**
Securities Action, 07 cv 9633 (LBS) (AJP) (DFE) :: **COMPLAINT**
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PLEASE TAKE NOTICE that, upon the annexed Consolidated Amended Class Action Complaint in the above-captioned action; the Memorandum of Law in Support of E. Stanley O'Neal's Motion to Dismiss the Consolidated Amended Complaint; the Declaration of Jay B. Kasner in Support of the Merrill Defendants' Motion to Dismiss, dated July 21, 2008, the exhibits attached thereto; and all prior papers and proceedings herein, Defendant E. Stanley O'Neal, by his attorneys, Simpson Thacher & Bartlett LLP, will move this Court, before the Honorable Leonard B. Sand, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, on a date and at a time designated by the Court, for an Order dismissing the Consolidated Amended Complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6), Fed. R. Civ. P. 9(b), and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(b), and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York
July 21, 2008

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